

FILED

NOV 30 2018

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

LAWRENCE ROEDEL,

Petitioner,

vs.

JAMES SALMONSEN, ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Defendants.

CV 18-153-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendations on September 5, 2018, recommending to dismiss Petitioner Lawrence Roedel's ("Roedel") petition for habeas corpus relief under 28 U.S.C. § 2254 (Doc. 1) as an unauthorized successive petition. (Doc. 3.) Roedel failed to timely object to the Findings and Recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States*

v. *Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendations (Doc. 3), the Court finds no clear error in Judge Lynch's finding that the Court has no jurisdiction over a successive petition, absent obtaining leave from the Ninth Circuit Court of Appeals. *Burton v. Stewart*, 549 U.S. 147, 157 (2007). Because there is no indication that Roedel has done so, the Court adopts the Findings and Recommendations in full.

Accordingly, IT IS ORDERED that:


(1) Judge Lynch's Findings and Recommendations (Doc. 3) is ADOPTED IN FULL.

(2) Roedel's Petition (Doc. 1) is DISMISSED for lack of jurisdiction.

(3) The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

(4) A certificate of appealability is DENIED.

DATED this 30th day of November, 2018.



Dana L. Christensen, Chief Judge
United States District Court